

November 1919

Employing and Accepting Employment as Additional Counsel in Litigation without the knowledge of Consent of Existing Local Counsel—Disapproved

Follow this and additional works at: <https://researchrepository.wvu.edu/wvlr>



Part of the [Legal Ethics and Professional Responsibility Commons](#)

Recommended Citation

Employing and Accepting Employment as Additional Counsel in Litigation without the knowledge of Consent of Existing Local Counsel—Disapproved, 26 W. Va. L. Rev. (1919).

Available at: <https://researchrepository.wvu.edu/wvlr/vol26/iss1/13>

This Question and Answer of Committee on Professional Ethics of New York County Lawyer Association is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact ian.harmon@mail.wvu.edu.

QUESTIONS AND ANSWERS OF COMMITTEE ON PROFESSIONAL ETHICS OF NEW YORK COUNTY LAWYERS ASSOCIATION¹

QUESTION NO. 176

EMPLOYING AND ACCEPTING EMPLOYMENT AS ADDITIONAL COUNSEL IN LITIGATION WITHOUT THE KNOWLEDGE OR CONSENT OF EXISTING LOCAL COUNSEL—DISAPPROVED.—Beneficiary sues insurance company, in a western town which we will call X, on a life insurance policy. A, chief counsel of the insurance company, with his headquarters in the East, employs B, local counsel to defend the suit. Later, C, an attorney and a policy holder, living in X, writes the insurance company to send him several hundred dollars to employ D to "sit in" at the rehearing and to "read the record." A, chief counsel, sends the money and D is employed without the knowledge or consent of B, local counsel.

Is the action of A and C in employing D, or the action of D in accepting employment mentioned, unprofessional?

ANSWER NO. 176

The Committee understands the question to refer to a local practice with which it is not entirely familiar. It is advised that to "sit in" on a rehearing and to "read the record" implies participation in the conduct of a trial. With this understanding, the Committee is of the opinion that proper professional conduct on the part of the counsel last retained requires him to communicate the fact of his retainer to the attorney of record, in order to afford the latter an opportunity to determine his course. (See Canon 7, American Bar Association).

¹In answering questions this committee acts by virtue of the following provisions of the by-laws of the Association, Article XVI, Section III:

"This Committee shall be empowered when consulted to advise inquirers respecting questions of proper professional conduct, reporting its action to the Board of Directors from time to time."

It is understood that this Committee acts on specific questions submitted *ex parte*, and in its answers bases its opinion on such facts only as are set forth in the questions.